

REMARKS

Favorable reconsideration and allowance of the subject application are respectfully requested. Claims 1-10 are pending in the present application, with claims 1, 6, and 9 being independent. Claims 5-10 have been added by this amendment, which do not add any new subject matter.

Priority

On page 2 of the outstanding Office Action the Examiner states that a claim for priority under 35 U.S.C. §119 cannot be based on the German priority document because the U.S. application was filed more than 12 months thereafter.

Applicant respectfully submits that the present application was filed on September 8, 2000, and the German priority document (DE 199 43 183.3) was filed on September 9, 1999. Therefore, it should be readily apparent that the present application was filed within 12 months of the German application. Applicant respectfully requests that the Examiner acknowledge Applicant's claim for priority.

Additionally, Applicant also submits herewith a Request for a Corrected Official Filing Receipt. This Request requests that the filing date be changed to September 8, 2000, as it was originally

indicated in the Official Filing Receipt dated October 23, 2000.

Claim Rejections Under 35 U.S.C. §112

The Examiner rejected claims 1-4 under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. These rejections are respectfully traversed.

Specifically, the Examiner alleges that Applicant fails to provide a clear explanation about how it is possible to assign different colors to two sub-objects with the same absorption attributes. The Examiner further alleges that the term "absorption attribute" is too broad.

Applicant has amended the claim, in an effort to clarify the claim. Further, Applicant respectfully submits that the Examiner's allegation that the term "absorption attribute" is too broad, is not a proper basis to substantiate a 35 U.S.C. §112, first paragraph, rejection. In other words, according to MPEP §2173.04 "[b]readth of a claim is not to be equated with indefiniteness," citing *In re Miller*, 169 USPQ 597 (CCPA 1971). Furthermore, Applicant would like to direct the Examiner's attention to MPEP §2111, which states that the broadest reasonable interpretation of a claim must be consistent with the interpretation that those skilled in the art would reach, citing *In re Cortright*, 165 F.3d 1353, 1359, 489 USPQ2d 1464, 1468 (Fed. Cir. 1999).

Applicant, however, has amended the term to recite "X-ray absorption attribute," which is the translation from the priority document for "Roentgenabsorption," and therefore, the amendment has not been made for any patentability reasons.

Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection.

Claim Rejections Under 35 U.S.C. §102

The Examiner rejected claims 1-4 under 35 U.S.C. §102(b) as being anticipated by *Annis et al.* (US 5,253,283). This rejection is respectfully traversed insofar as it pertains to the presently pending claims.

Annis is directed to an inspection system, whereby the brightness of the color of each pixel is controlled in dependence on how far above or below a predetermined level of a detected transmitted or scattered signal is. In other words, the system of *Annis* provides a display wherein each pixel has a unique recognizable color, and wherein there is no mixing of color, see column 5, lines 5-9. Additionally, the system of *Annis* may also include a lookup table that can be programmed to allocate a brightness value to a particular color for each pixel, which is dependent on the intensity of the transmitted or scattered radiation, see column 5, lines 30-34. In other words, the shade of

the color of the pixels corresponding to the materials is made brighter as the intensity of a signal increases above a predetermined level, see column 4, lines 38-42.

Applicant, however, respectfully submits that the cited art fails to teach or suggest at least that a brightness level of at least one of the specific colors, which is assigned to a sub-object, is adjusted if the X-ray absorption attribute associated with the sub-object is substantially equal to the X-ray absorption attribute of another sub-object., as recited in independent claim 1.

Furthermore, *Annis* contains absolutely no teaching that the adjustment of the brightness level of one of the specific colors takes into consideration the sensitivity of the human eye. As such, Applicant respectfully submits that *Annis* does not anticipate the presently pending claims.

Dependent claims 2-4, and new dependent claim 5 should be considered allowable at least for depending from an allowable base claim.

New claims 6-10 should be considered allowable because the cited art fails to teach or suggest the combination of elements including that the brightness level of a sub-object is adjusted if the absorption value of the sub-object is substantially equal to the absorption value of another sub-object.

Conclusion

In view of the above amendments and remarks, this application appears to be in condition for allowance and the Examiner is, therefore, requested to reexamine the application and pass the claims to issue.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Martin Geissler (Reg. 51,011) at telephone number (703) 205-8000, which is located in the Washington, DC area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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